



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,484	04/17/2001	Lisette Cooper	11910-003001	8521
26161	7590	03/09/2006		
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER CHENCINSKI, SIEGFRIED E	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/836,484	Applicant(s) COOPER ET AL.	
	Examiner Siegfried E. Chencinski	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/19/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-13 are rejected** under 35 U.S.C. 103(a) as being disclosed by Gatto (US PreGrant Publication 2003/0065601 A1) in view of Applicant disclosed prior art, Official Notice and Jones et al. (US Patent 6,021,397).

Re. Claim 1, Gatto discloses a method on a computer comprising displaying to a user the measurements, analysis and tracking of past performance of financial assets such as securities. Gatto further discloses allowing a user to choose from a multitude of predetermined analysis parameters and metrics for calculation and visualization for a plurality of time periods (Abstract, ll. 1-3, 18-21). Gatto also discloses the use of overlays in graphic visualization displays ([0024], [0025], [0026], [0027]). Gatto does not explicitly disclose displaying to a user a circular visualization element having sectors arranged around a center of the element, the sectors respectively corresponding to different groups of assets, in each of the sectors, displaying an array of visual elements representative of respective assets belonging to the group to which the sector corresponds, the visual elements being arrayed with respect to distance from the center in accordance with magnitudes of performance of the assets during a recent period. However, the use of circular elements is well known, as is the display of multiple parameters or metrics within a single display, whether circular, rectangular, x/y axis, multi dimensional and so forth. Also well known is using a linear scale emanating from a circle's center outward on the radials with scale values represented in various ways, such as hash marks on the radials or as full circles which automatically intersect with every radial. Circular visualizations can be divided into

Art Unit: 3628

sectors which are well known, one well known version of which is a pie chart disclosed by Jones which could readily be used to present different groups of asset securities (Col. 1, l. 37). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicant's admitted prior art and with the well known visualization display techniques of circular visualization elements having sectors arranged around a center of the element and having additional metrics incorporated into each sector, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 2, neither Gatto nor Jones explicitly visual elements which display dots, one for each of the assets. However, Applicant discloses a prior art method in which the visual elements comprise displayed dots, one for each of the assets (Specification, p. 1, ll. 14-15, which displays a dot for each asset

(<http://screen.morningstar.com/InvestmentRadar/InvestmentRadar.html>)).

It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicant's admitted prior art and with the well known visualization display techniques in which display visual elements comprise displayed dots, one for each of the assets, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 3, neither Gatto nor Jones explicitly disclose visual elements which exhibit visible characteristics that correspond to categories of the assets within the group. However, Applicant discloses a prior art method in which the visual elements exhibit visible characteristics that correspond to categories of the assets within the group (Specification, p. 1, ll. 14-15, which displays categories of assets within the group (<http://screen.morningstar.com/InvestmentRadar/InvestmentRadar.html>)).

It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones,

Applicant's admitted prior art and with the well known visualization display techniques in which the visual elements exhibit visible characteristics that correspond to categories of the assets within the group, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 4, neither Gatto nor Jones nor Applicant explicitly disclose categories of the assets within the group which correspond to different capitalizations. However, it is well known that financial assets such as securities are segmented into different capitalization categories. Popular versions of this are small cap and large cap funds and indexes. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicant's admitted prior art and with the well known visualization display techniques in which the categories of the assets within the group correspond to different capitalizations, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 5, neither Gatto nor Jones nor Applicant explicitly disclose dots which are arranged along a radius of the sector to which they belong. However, Gatto discloses a data visualization technique on a chart or graph to display simultaneously the numerical representation of a plurality of financial parameters of financial security assets, such as performance metrics provided by security analysts ([0026]) and for a plurality of assets ([0029]-I. 3). Circular graphic displays are commonly used in conveying financial and non-financial data at a glance. Jones discloses the pie chart, one of the best known applications of a circular display (Col. 1, I. 37). The simplest version only features one parameter, but multiple parameters are also in wide use. The details depend on the information to be conveyed in a visual display. Applicant has merged a circular display with a plurality of x/y axis displays. The x axis can be a circle and the y axis can be a corresponding radial of the circle placed wherever the display's purpose warrants the y=0 location to be, whether at the center of the circle, at the outside limit of the circle, or in between. The zero value of y is on the radial and the positive and negative values of

the y axis are on the circles which have normal to the radials of the circle. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicant's admitted prior art and with the well known visualization display techniques of circular graphic data displays in which dots are arranged along a radius of the sector to which they belong, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 6, neither Gatto nor Jones nor Applicant explicitly disclose dots that lie on the radius at a given distance from the center are displayed at different angular positions near to the radius. However, the use of the radial x/y axes display would lend itself to this result. As per claim 5, an ordinary practitioner of the art would have known that the location of dots within a circular display is flexible and depends on what the practitioner wants to communicate visually. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicant's admitted prior art and with the well known visualization display techniques of circular graphic data displays in which dots that would otherwise lie on the radius at a given distance from the center are displayed at different angular positions near to the radius, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 7, neither Gatto nor Jones nor Applicant explicitly disclose a method in which the sectors have angular extents that represent the fractions of the total number of asset items represented by the respective sectors. However, the angular extents of circular displays are a fundamental facility of the circular display popularly known as a pie chart. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicant's admitted prior art and with the well known visualization display techniques of circular graphic data displays in which the sectors have angular extents that represent the fractions of the total number of asset items represented by the

respective sectors, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 8, neither Gatto nor Jones nor Applicant explicitly disclose a method in which the circular visualization element is subdivided into rings having respectively different distances from the center. However, it is well known in the art of circular geometric displays of data that values displayed on the radials of a circle show their values through respectively different distances from the center. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicant's admitted prior art and with the well known visualization display techniques of circular graphic data displays in which the circular visualization element is subdivided into rings having respectively different distances from the center, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 9, neither Gatto nor Jones explicitly disclose a method in which the rings are displayed in different colors. However, the use of different colors to differentiate or emphasize various attributes is well known and is admitted prior art by Applicant (Specification, p. 1, ll. 14-15, which displays categories of assets within the group and which uses a variety of colors to differentiate characteristics of assets (<http://screen.morningstar.com/InvestmentRadar/InvestmentRadar.html>)).

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicant's admitted prior art and with the well known visualization display techniques of circular graphic data displays in which the rings are displayed in different colors, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 10, neither Gatto nor Jones nor Applicant explicitly disclose a method in which magnitudes of performance of the assets are measured in percentage price

change. However, Gatto discloses performance time series of financial assets. Gatto also discloses the facility for a user to obtain earnings growth data which the user can then display in table and graphic form ([0136]-II. 8-9; Fig. 14, center left). Growth rates are percentage price changes which are positive or negative. Such percentage price changes are one of the most fundamental measures used in measuring stock securities performance are among the most frequently cited metrics of financial asset performance. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicant's admitted prior art and well known visual display techniques for data in which the magnitudes of performance of the assets are measured in percentage price change, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 11, neither Gatto nor Jones nor Applicant explicitly disclose a method in which the recent period comprises a trading day on an asset market. However, Gatto discloses a method in which the recent period comprises a trading day on an asset market ([0005]-II. 9-12. A trading day is included in Gatto's range of periods. A trading day is a fundamental data point in all publicly traded securities data. The number of shares traded in each security is primarily reported for each trading day and is summed up to various aggregates of securities for each stock market). A security's closing price for each trading day is almost universally used to value security holdings of many kinds. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have applied the disclosure of Gatto with that of Jones, Applicant's admitted prior art and well known visual display techniques for data, in which the recent period comprises a trading day on an asset market, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 12, Gatto discloses method in which the assets comprise 'securities issued by corporations (Abstract, ll. 1-3; [0001]. Gatto inherently deals with the tracking and analysis' of the securities issued by corporations.

Re. Claim 13, Gatto discloses a circular visualization element displayed on a computer screen to a user, including the measurements, analysis and tracking of past performance of financial assets such as securities. Gatto further discloses allowing a user to choose from a multitude of predetermined analysis parameters and metrics for calculation and visualization for a plurality of time periods (Abstract, ll. 1-3, 18-21). Gatto also discloses the use of overlays in graphic visualization displays ([0024], [0025], [0026], [0027]). Gatto does not explicitly disclose a displayed visualization element that is circular, has sectors arranged around a center of the element, the sectors respectively corresponding to different groups of securities issued by corporations, in each sector, has an array of dots representing respective securities belonging to the group to which the sector corresponds, each of the dots lying on or near a radius of the sector and each having a distance from the center along the radius that corresponds to the percentage change in the price of the represented security during a trading day, and has differently colored rings at respectively different distances from the center. However, the same considerations which are cited in the rejections of claims 1-12 would have made it obvious to an ordinary practitioner at the time of Applicant's invention to have combined the disclosures of Gatto, Applicant's admitted prior art and well known practices in the art in order to provide the claimed visualization element of this claim to users, motivated by the need for providing financial advice to individuals which will assist them to reach their goals (Jones, Col. 2, ll. 13-17).

2. Claims 14-16, 18, 19, 22 and 23 are rejected under 35 U.S.C. 103(a) as being disclosed by Makivic (US Patent 6,061,662) in view of Official Notice.

Re. Claim 14, Makivic discloses a method on a computer of displaying of probability information concerning the future value of a financial security. Makinic does not explicitly disclose a method comprising displaying to a user a visualization element that indicates the odds of a performance measure of an asset being within displayed ranges

of identified values of the performance measure at a succession of times in the future. However, a probability of a future event is the same as the odds of a future event. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention that a probability has to relate to the odds of some specific measure or range which is less than the possibility of all future outcomes, which are 1 or 100%. Therefore, an ordinary practitioner of the art would have found it obvious to use the disclosure of Makivic to display probability information of a certain range of future performance outcomes of a financial asset, motivated by an increased demand for on-line services in the area of investment decision support resources (Makivic, Col. 2, ll. 50-53).

Re. Claim 15, Makivic discloses a method in which the performance measure comprises a price of the asset (title – valuation of a financial instrument; Fig. 2).

Re. Claim 16, Makivic discloses a method in which the performance measure comprises a return percentage (Col. 5, l. 20-21. Security returns are inherently expressed in percentages).

Re. Claim 18, Makivic does not explicitly disclose a method in which the visualization element include stripes superimposed on a graph of the performance measure over time, each of the stripes representing one of the displayed ranges. However, the superimposing of stripes on a graph is a well known way of distinguishing and highlighting data on a graphic display. Therefore, an ordinary practitioner of the art would have found it obvious to combine the disclosure of Makivic with the well known technique of superimposing of stripes on a graph in order to display performance measure over time, motivated by an increased demand for on-line services in the area of investment decision support resources (Makivic, Col. 2, ll. 50-53).

Re. Claim 19, Makivic does not explicitly disclose a method in which each of the stripes begins at a current time and becomes broader as it extends to future times. However using stripes which become broader as a time series changes with a parameter is a well known display technique variation of using stripes. Therefore, an ordinary practitioner of the art would have found it obvious to combine the disclosure of Makivic with the well known technique of superimposing of stripes of increasing broadness on a graph

in order to display performance measure over time, motivated by an increased demand for on-line services in the area of investment decision support resources (Makivic, Col. 2, ll. 50-53).

Re. Claim 22, Makivic does not explicitly disclose a method in which the visualization element includes two portions, one of the portions representing the odds prior to a specified date based on one assumption, the other of the portions representing the odds after the specified date based on another assumption. However, the displaying of before and after scenarios on one tabular or graphic display is a well known technique for demonstrating the impact of an assumption. Therefore, an ordinary practitioner of the art would have found it obvious to combine the disclosure of Makivic with the well known technique of displaying of before and after scenarios on one tabular or graphic display is a well known technique for demonstrating the impact of an assumption, motivated by an increased demand for on-line services in the area of investment decision support resources (Makivic, Col. 2, ll. 50-53).

Re. Claim 23, Makivic does not explicitly disclose a method in which the specified date is a date on which tax effects change from the one assumption to the other assumption. However, the displaying of before and after scenarios on one tabular or graphic display is a well known technique for demonstrating the impact of an assumption or the change in assumptions. Displaying the results of a change in tax assumptions is one example of using the well known technique of displaying the effects of a change in assumptions. Therefore, an ordinary practitioner of the art would have found it obvious to combine the disclosure of Makivic with the well known technique of displaying of before and after scenarios on one tabular or graphic display is a well known technique for demonstrating the impact of a change in assumptions, motivated by an increased demand for on-line services in the area of investment decision support resources (Makivic, Col. 2, ll. 50-53).

3. Claim 17 is rejected under 35 U.S.C. 103(a) as being disclosed by Makivic in view of Official Notice and Jones.

Re. Claim 17, Makivic does not explicitly disclose a method in which the performance measure comprises a tax-adjusted return percentage. However, Jones discloses a method in which the performance measure comprises a tax-adjusted return percentage (Col. 8, ll. 1-2). It would have been obvious for an ordinary practitioner of the art at the time of Applicant's invention to have combined the teachings of Makivic with those of well known prior art and Jones for the purpose of computing and displaying tax-adjusted return percentages, motivated by the need for providing financial advice to individuals which will assist them to reach their goals (Jones, Col. 2, ll. 13-17).

4. Claim 20 is rejected under 35 U.S.C. 103(a) as being disclosed by Makivic in view of Official Notice and Gatto.

Re. Claim 20, Makivic does not explicitly disclose a method of displaying a graphical device that shows actual historical values of the performance measure. Gatto discloses displaying a graphical device that shows actual historical values of the performance measure (Fig. 2). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Makivic with well known prior art and the art of Gatto in order to display a graphical device that shows actual historical values of the performance measure, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

5. Claim 21 is rejected under 35 U.S.C. 103(a) as being disclosed by Makivic in view of Official Notice, Gatto and Applicant admitted prior art (E Trade.com, Window printed line graph image dated 7/17/2000).

Re. Claim 21, Makivic does not explicitly disclose a method in which the graphical device that shows actual historical values is a line graph one end of which joins the visualization element at a point which represents a current date. However, E Trade.com carries line graphs which show actual historical values one end of which joins the visualization element at a point which represents a current date. It would have been obvious for an ordinary practitioner of the art at the time of Applicant's invention to

have combined the teachings of Makivic with well known prior art, Gatto and those of Applicant's admitted prior art of E Trade for the purpose showing actual historical values in a line graph one end of which joins the visualization element at a point which represents a current date, motivated by an increased demand for on-line services in the area of investment decision support resources (Makivic, Col. 2, ll. 50-53).

6. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being disclosed by Gatto in view of archive.com's Wayback Machine (yahoo.com - November 16, 1999 and msn.com - November 28, 1999, hereafter the Wayback Machine).

Re. Claim 24, Gatto discloses a method comprising displaying to a user the measurements, analysis and tracking of past performance of financial assets such as securities. Gatto further discloses allowing a user to choose from a multitude of predetermined analysis parameters and metrics for calculation and visualization for a plurality of time periods (Abstract, ll. 1-3, 18-21). Gatto does not explicitly disclose a method comprising displaying to a user a visualization element having graphical indicators of the relative performance of a selected asset compared with the performance of groups of assets in each of a succession of time periods, each of the groups comprising assets representing a common style. However, the visualization element having graphical indicators of the relative performance of a selected asset compared with the performance of groups of assets in each of a succession of time periods were well known at the time of Applicant's invention. The stock market reporting industry has been using such graphics to display comparative information in graph form for many years. The Wayback Machine makes available snapshots of such web access from 1999. These links connect to current stock market data since they are unable to replicate the real time market activity of that time, but they show that those links existed prior to Applicant's invention. The features of the stock quote mechanisms include comparative line graphs of a specific stock and one or more indexes. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Gatto with the well known art demonstrated by publicly accessible online stock market displays to display to a user a visualization element

having graphical indicators of the relative performance of a selected asset compared with the performance of groups of assets in each of a succession of time periods, each of the groups comprising assets representing a common style, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Re. Claim 25, Gatto discloses a method in which the style comprises a class of investment objectives (Abstract; [0001]; [0008]; [0009]. Gatto's disclosure is inherently focused helping a user view information relating to the user's chosen classes of investment objectives, and making it easier to see visual graphic displayed of such data.).

Re. Claim 26, Gatto does not explicitly disclose a method in which the relative performance is determined using an asset class factor model. However, as stated in various ways in the rejections of claims 1-25, the art of graphically displaying data such as time series in simple or comparative ways over time was well known prior to Applicant's invention. Applicant's data from an asset class factor model lend themselves to the same well known art. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Gatto and archive.com's Wayback Machine with the well known art to display to a user a visualization element having graphical indicators of the relative performance of a selected asset compared with the performance of groups of assets in each of a succession of time periods, each of the groups comprising assets representing a common style, motivated by the desire to provide users with improved tools for effectively viewing historical estimates, projections and recommendations regarding financial assets such as securities (Gatto, [0008]).

Response to Arguments

7. Applicant's arguments filed December 19, 2006 have been fully considered but they are not persuasive.

ARGUMENT:

A. Re. Claim 1, Applicant argues that

- (1) The examiner has not identified a suggestion to combine the cited references (per *In re Vaeck* and *In re Fine*) (page 10, ll. 15-21).
- (2) "... the examiner has not identified any actual prior art describing or suggesting the combination of the various different graph elements combined in the claimed visual display" (p. 10, ll. 21-30).

B. Re. Claim 14, Applicant argues that

- (1) the mere display of probability information concerning future values of a security .. does not describe and would not have made obvious displaying elements that indicate the odds of such values "being within displayed ranges of identified values ... at a succession of times in the future" (p. 11, ll. 18-21).
- (2) the examiner has not identified any suggestion to combine the method of Makivic with anything else to achieve the claimed method, nor has he identified any prior art reference actually containing the claimed elements (p. 11, l. 23-25).

RESPONSE :

A. Re. Claim 1

(1) There is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin* 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971) ... and references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (ccpa) 1969.

In this case, the examiner has relied on what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art.

(2) The examiner's judgement on what would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention is explained in the above rejection of claim 1. To explain further, the practitioner sees a variety of graphic displays of data between Gatto and Jones, many rectangular graphic displays based on the X-Y axis (bar charts, scatter diagrams, data plots and trend lines drawn through the data

plots – Fig's 1, 8, 9, 11A-C, 26, 28 and 31) in Gatto, and the use of a circular presentation of data in Jones (phave found obvious and suggested by the references, the burden of proof falls on the Applicant to demonstrate why the examiner's judgement about the suggestions drawn by one of ordinary skill from the combined references would be unreasonable ("[T]he PTO can require an applicant to prove that the prior art products do not necessarily or inherently possess the characteristics of his [or her] claimed product. Whether the rejection is based on 'inherency' under 35 U.S.C. 102 [<appxl 35 U S C 102.htm>](#), on 'prima facie obviousness' under 35 U.S.C. 103 [<appxl 35 U S C 103.htm>](#), jointly or alternatively, the burden of proof is the same...[footnote omitted]." The burden of proof is similar to that required with respect to product-by-process claims. In re Fitzgerald, 619 F.2d 67, 70, 205 USPQ 594, 596 (CCPA 1980) (quoting In re Best, 562 F.2d 1252, 1255, 195 USPQ 430, 433-34 (CCPA 1977)).). The examiner finds that Applicant has not made a persuasive argument, in fact has not really addressed the subject of what the ordinary practitioner would find obvious when considering all of the references as a whole in combination with the practitioner's own knowledge base.

B: Re. Claim 14:

- (1) The examiner has not identified a suggestion to combine the cited references (per In re Vaeck and In re Fine) (page 10, ll. 15-21).
- (2) "... the examiner has not identified any actual prior art describing or suggesting the combination of the various different graph elements combined in the claimed visual display" (p. 10, ll. 21-30).

RESPONSE :

- (1) Makivic displays ranges for projected stock prices in graphic form in Fig. 5.
- (2) As stated in the response to Applicant's argument regarding claim 1, the examiner has made the judgement that one of ordinary skill would find it obvious to see the suggestions for claim 14 in Makivic for the reasons given in the rejection, which his repeated above for Applicant's convenience. The burden of proof is on Applicant to

make a persuasive case in rebuttal of that judgement. The examiner has not found that Applicant has made such a persuasive case.

Conclusion

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Hyung S. Sough, can be reached on (571) 272-6799.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington D.C. 20231
or (571)273-8300 [Official communications; including After Final communications
labeled "Box AF"]

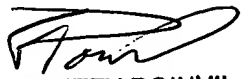
Art Unit: 3628

(571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or
"DRAFT"]

Hand delivered responses should be brought to the address found on the above
USPTO web site in Alexandria, VA.

SEC

March 6, 2006


FRANTZY POINVIL
PRIMARY EXAMINER
Art. 3628